

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1280 of 2016

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Amar Nath Gupta, Son of Shambhu Prasad, Resident of Mohalla-Shamsherganj, P.S.- Darbhanga Town in the District of Darbhanga

... .. Petitioner

Versus

1. The State of Bihar through District Magistrate cum Collector, Darbhanga
2. The District Magistrate cum Collector, Darbhanga
3. The Darbhanga Municipal Corporation through its Chief Executive Officer, Darbhanga
4. The Chief Executive Officer, Darbhanga Municipal Corporation, Darbhanga
5. The Administrator, Darbhanga Municipal Corporation, Darbhanga
6. The Town Commissioner, Darbhanga Municipal Corporation, Darbhanga

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Gopal Prasad Roy, Adv.
For the Respondent/s : Mr. Rajiv Roy- GP 5

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date : 26-10-2018

Heard Mr. Gopal Prasad Roy, learned counsel for the petitioner, Mr. Bindhyachal Rai, learned counsel for the Darbhanga Municipal Corporation and Mr. Arun Kumar, learned AC to GP 5 for the respondent-State.

The present writ application has been filed for restraining the respondent authorities, particularly Darbhanga Municipal Corporation from construction of public toilet, namely ‘Sulabh Sauchalay’ on a public lane, situated at the southern side of the house of the petitioner at Ward No. 14(old) Ward No. 10 (new), Tower Chowk Lal Bagh, Darbhanga.

A counter affidavit has been filed on behalf of Respondent Nos. 2 to 4 and 6 to the effect that the public toilet



was constructed about 20 years ago against which the petitioner preferred Title Suit No. 337 of 2015, before learned Sub-Judge, Darbhanga on 06.08.2015 which is still pending, wherein a petition filed under Order 39, Rules 1 and 2 of the C.P.C. on 07.09.2015 has been rejected. A petition under Order 39 Rule 7 of the C.P.C. was also filed on 19.09.2015 and in pursuance to that, Advocate Commissioner was appointed and he had submitted the report.

Considering the fact that with regard to issue in question, a proper title suit is pending, this Court is not inclined to interfere.

Accordingly, the present writ application is disposed of with liberty to the petitioner to pursue his remedy before appropriate forum.

It is made clear that disposal of the present writ application will not prejudice the case of the petitioner in the pending proceedings.

(Dinesh Kumar Singh, J)

Amrendra/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

